

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to amendment filed on 1/17/2006. Of the previously presented claims 1-12; claims 1-12 have been amended and claim 13 has been added.

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statements (IDS) submitted on 1/17/2006 and 12/8/2006 is being considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Independent claims 1 and 10 recite a first step/means for determining a first distinctive signal from the mobile subscriber to the mobile telecommunication network, intended for the mobile subscriber. This limitation is indefinite because the subject matter pertains to sending a signal from a mobile subscriber and intended for the mobile subscriber, thus showing that the sender and recipient is the same entity. The Examiner asserts that further distinction or definition of the "mobile subscriber" is required and that the following rejections are made with the interpretation that the mobile subscriber that sends the signal is a sender and the mobile subscriber for which the signal is intended is a recipient (i.e. two different subscribers).

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 13 recites a "computer readable medium having a plurality of instructions stored" but there is no support for the computer readable medium disclosed in the specification.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1 and 6-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Zabawshyj et al. (US 2004/0038688) (hereinafter Zabawshyj).

Regarding claim 1, Zabawshyj teaches a method for informing an application server (figure 1, item 11; presence based application) whether or not a mobile subscriber is present on a mobile telecommunication network, the method comprising characterized in that it comprises:

a first step for sending a first distinctive signal (SMS message) from the mobile subscriber to the mobile telecommunication network, intended for the mobile subscriber (paragraphs 18, 39);

a second step for determining a present or not present binary state (if a given mobile subscriber is active) according to a reaction of the mobile telecommunication network to said first signal (paragraphs 18, 19, 32); and

a third step for communicating to the application server the state determined in the second step (paragraphs 36, 38).

Regarding claim 6, Zabawshyj teaches said first signal consists of a telecommunication network node interrogation of the present or not present state of the mobile subscriber (paragraph 29); and

the reaction of the mobile telecommunication network includes a response of the telecommunication network node on the present or not present state of the mobile subscriber (paragraph 39).

Regarding claim 7, Zabawshyj teaches said first signal consists of a positioning of a detection point on a telecommunication network node relating to any modification of the present or not present state of the mobile subscriber (paragraph 19); and

the reaction of the mobile telecommunication network includes a notification of the telecommunication network node relating to each modification of the present or not present state of the mobile subscriber (paragraph 39).

Regarding claim 8, Zabawshyj teaches an activation of the third step communicating the present state to the application server is followed by an activation of the third step communicating the not present state to the application server when the state determined in the second step passes from present to not present (paragraphs 35).

Regarding claim 9, Zabawshyj teaches an activation of the third step results from a transition enabled by a request originating from the server to request the state of the mobile subscriber (paragraph 29).

Regarding claim 10, the limitations are rejected as applied to claim 1.

Regarding claim 11, the limitations are rejected as applied to claim 2.

Regarding claim 12, Zabawashyj teaches that the first means is are arranged to send said first signal at regular time intervals that depend on the present or not present state of the mobile subscriber (paragraph 28).

Regarding claim 13, the limitations are rejected as applied to claim 1.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zabawshyj Zabawshyj et al. (US 2004/0038688) (hereinafter Zabawshyj) in view of Caspi et al. (US 2005/0079873) (hereinafter Caspi).

Regarding claim 2, Zabawshyj teaches said first signal is a short message sent to the mobile telecommunication network intended for the mobile subscriber (paragraphs 18, 19); the method further comprising: a first transition enabled by a reaction of the mobile telecommunication network indicating that the message is delivered (paragraph 41). Zabawshyj does not explicitly teach a second transition enabled by an expiry of a time delay without reaction from the mobile telecommunication network, activates the second step that determines the present, respectively not present state of the mobile subscriber. Caspi discloses a system and

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method for centrally hosted presence reporting (title). Caspi teaches a second transition enabled by an expiry of a time delay without reaction from the mobile telecommunication network, activates the second step that determines the present, respectively not present state of the mobile subscriber (paragraph 134). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the presence server of Zabawshyj, to include a timer expiry to determine the state of the subscriber as unavailable, as taught by Caspi, in order to increase the flexibility of the server. This modification would allow a time period to be allotted in determining the presence of the mobile subscriber thus conserving resources in the server by not having to monitor when the subscriber becomes available.

Regarding claim 4, Caspi teaches the first step is activated during an activation of the second step by positioning a time delay that is a function of the present or not present state determined in the second step (paragraph 134).

Regarding claim 5, Caspi teaches a step of a wait time activated when the second step determines the present state so as to activate the first step after expiry of the wait time (paragraph 134).

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zabawshyj et al. (US 2004/0038688) (hereinafter Zabawshyj) in view of Caspi et al. (US 2005/0079873) (hereinafter Caspi) as applied to claim 2 above, and further in view of Qu et al. (US 2003/0083079) (hereinafter Qu).

Regarding claim 3, the combination of Zabawshyj and Caspi teach the limitations set forth in claim 2, but does not explicitly teach positioning a data coding scheme parameter in a header of the short message positioned at a value that has the effect of commanding the mobile receiving the message to discard the content of the message and to deactivate a message received indication on the mobile. Qu discloses a method and apparatus for conveying reports for SMS messages in wireless communications systems (title). Qu teaches positioning a data coding scheme parameter in a header of the short message positioned at a value that has the effect of commanding the mobile receiving the message to discard the content of the message and to deactivate a message received indication on the mobile (paragraph 31; tables 1, 2). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zabawshyj and Caspi include monitoring of the SMS coding schemes of Qu, in order to properly detect the presence of a mobile subscriber based on a delivery success/failure report.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bragado Carrasco et al. (US 2005/0064882)

Coskun et al. (US 2004/0142709)

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAM HUYNH whose telephone number is (571)272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

NTH  
10/14/08